

promptness after the defect is, or with due diligence should have been, ascertained.

§ 385.406 Data requests, interrogatories, and requests for production of documents or things (Rule 406).

(a) *Availability.* Any participant may serve upon any other participant a written request to supply information, such as responses to data requests and interrogatories, or copies of documents.

(b) *Procedures.* (1) A request under this section must identify with specificity the information or material sought and will specify a reasonable time within which the matter sought must be furnished.

(2) Unless provided otherwise by the presiding officer, copies of any discovery request must be served upon the presiding officer and on all participants to the proceeding.

(3) Each discovery request must be answered separately and fully in writing.

(4) Responses to discovery requests are required to be served only on the participant requesting the information, Commission trial staff, and any other participant that specifically requests service. The presiding officer may direct that a copy of any responses be furnished to the presiding officer. Responses must be served within the time limit specified in the request or otherwise provided by the presiding officer.

(5) If the matter sought is not furnished, the responding participant must provide, in accordance with Rule 410, written explanation of the specific grounds for the failure to furnish it.

§ 385.407 Inspection of documents and other property (Rule 407).

(a) *Availability.* On request, the presiding officer may order any other participant to:

(1) Permit inspection and copying of any designated documents (including writings, drawings, graphs, charts, photographs, sound recordings, computer tapes or other compilations of data from which information can be obtained) that are not privileged and that are in the possession, custody, or control of the participant to whom the order is directed;

(2) Permit inspection, copying or photographing, testing, or sampling of any tangible thing that is not privileged and that is in the possession, custody, or control of the participant to whom the order is directed; and

(3) Permit entry upon or into designated land, buildings, or other property in the possession, custody, or control of the participant to whom the order is directed for the purpose of inspecting, measuring, surveying, or photographing the property or any activity or operation that is not privileged and that is conducted in or upon the property.

(b) *Procedures.* A request for inspection of documents or property under this section must describe with reasonable particularity the documents or other property to which access is sought. The request must also specify a reasonable time, place, and manner of making the inspection.

§ 385.408 Admissions (Rule 408).

(a) *General rule.* A participant may serve upon any other participant a written request for admission of the genuineness of any document or the truth of any matter of fact. The request must be served upon all participants.

(b) *Procedures.* (1) Any request for admission of the genuineness of a document must be accompanied by a legible copy of the document, unless it was previously furnished, is in the possession of the recipient of the request, or is readily available for inspection and copying.

(2) The truth of specified matters of fact or the genuineness of the documents described in a request are deemed admitted unless, within 20 days after service of the request or any longer period designated in the request, the participant that receives the request serves upon the requesting participant a written answer or objection addressed to the matters in the request.

(3) An answer must specifically admit or deny the truth of the matters in the request or set forth in detail the reasons why the answering participant cannot admit or deny the truth of each matter. A denial of the truthfulness of the requested admission must fairly